



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 1176, H.D. 1, RELATING TO ELECTRIC GUNS.

BEFORE THE:

SENATE COMMITTEE ON TRANSPORTATION

LATE

DATE: Wednesday, March 13, 2019 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Clare E. Connors, Attorney General, or
John Cregor, Deputy Attorney General

Chair Inouye and Members of the Committee:

The Department of the Attorney General supports this bill but also offers comments and a proposal for amendment.

The purpose of this bill is to allow law enforcement officers of the Department of Transportation to carry what is commonly referred to as "Tasers." Currently Tasers are classified as "electric guns" and banned entirely in the State of Hawaii under Chapter 134, Hawaii Revised Statutes, with limited exceptions for law enforcement and military deployment. Hawaii is one of a dwindling number of states that bans electric guns entirely. In Caetano v. Massachusetts, 136 S. Ct. 1027 (2016), the Supreme Court stated that Tasers are covered by the Second Amendment to the United States Constitution. Most of the states that had bans on electric guns abandoned these laws leaving only Hawaii and Rhode Island as the two states with complete bans.

Pending before the United States District Court for the District of Hawaii is Roberts v. Ballard, 18-00125 HG-KSC, in which the Plaintiff is seeking a declaratory judgment and injunction to invalidate Hawaii's ban on electric guns. Replacing the ban with a reasonable regulatory regime of electric guns could preserve our ability to regulate electric guns but this can only be accomplished by amending the law, which only the Legislature, not the courts, can enact. In December of 2018, the parties to the Roberts v. Ballard lawsuit and the court agreed to a stay of proceedings to see if Chapter 134 could be amended to create such a regulatory scheme. If the Legislature

does not amend the law, the stay will expire and the lawsuit will proceed, risking the possibility that the ban will be stricken, leaving no restrictions or regulations for the purchase and use of electric guns by members of the public.

Another bill that was introduced, H.B. No. 1473, was intended to regulate the sale and use of electric guns. We respectfully request that this bill be amended to include the wording of H.B. No. 1473.



TESTIMONY BY:

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March 13, 2019
1:00 p.m.
State Capitol, Room 225

H.B. 1176, H.D. 1
RELATING TO ELECTRIC GUNS.

Senate Committee on Transportation

The Department of Transportation (DOT) **supports** this measure that would authorize officers designated by the Director of the Department of Transportation pursuant to Chapter 266 with police powers to carry and use electric guns while performing their duties. The Bill provides an alternative and tool for DOT law enforcement officers to use less lethal force in the performance of their duties.

Currently, authorized DOT officers are prohibited from carrying electric guns also referred to as tasers.

The DOT officers at the Harbors are responsible for the security and law enforcement that the State relies on its economic security of Hawaii. Each officer designated by the Director to enforce all state laws pursuant to HRS Chapters 266 are authorized to carry firearms in the performance of their duties such as serving and executing warrants, arresting offenders, and serving notices and orders to ensure the flow of commerce.

The DOT seeks to obtain accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc. similar to training and accreditation efforts currently pursued by the Department of Land and Natural Resources.

Thank you for the opportunity to provide testimony.

HB-1176-HD-1

Submitted on: 3/11/2019 8:54:19 PM

Testimony for TRS on 3/13/2019 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brett Kulbis	Testifying for Honolulu County Republican Party	Support	No

Comments:

HB-1176-HD-1

Submitted on: 3/11/2019 9:43:58 AM

Testimony for TRS on 3/13/2019 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr Marion Ceruti	Individual	Support	No

Comments:

HB 1176 HD1 is generally a good idea but it does not go far enough. The use of electric guns should not be restricted to law enforcement and the military. To fix this problem, the list in §134-16 section (c) needs to be amended to include the following: (6) Any American Citizen over the age of 18. (7) Vendors...

This will expand the second-amendment rights of citizens to include weapons that use "less-than-lethal" force as a stopgap measure until the U.S. Supreme Court can get around to declaring unconstitutional all state laws that restrict possession and carry of firearms.